



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/002,906	01/05/1998	THEODORE D. WUGOFSKI	450.196US1	8339

32719 7590 05/20/2005

GATEWAY, INC.
ATTN: SCOTT CHARLES RICHARDSON
610 GATEWAY DR., Y-04
N. SIOUX CITY, SD 57049

EXAMINER

TRAN, HAI V

ART UNIT PAPER NUMBER

2611

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/002,906	Applicant(s) WUGOFSKI ET AL.	
	Examiner Hai Tran	Art Unit 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 13-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 19-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/09/2005 has been entered.

Response to Arguments

Applicant's arguments, filed 02/09/2005, with respect to the rejection(s) of claim(s) 1-29 in view of Schein et al. (US 6323911) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Ohkura et al. (US 5737029).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 19, 22-23, 24-25 and 28-29 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Ohkura et al. (US 5737029).

Regarding claim 19, in combination with claims 1 and 3, regarding "identifying one or more channels showing an event of a user specified theme, wherein the step of identifying is achieved by matching one or more event themes from an EPG content database to the user specified theme," the Examiner cites (Ohkura Fig. 16 shows list of favorite channels corresponding to theme/category News; Fig. 17 shows list of favorite channels corresponding to theme/category MOVIE... Col. 10, lines 15-27); regarding "automatically adding each of the channel to a favorite channel list wherein such adding does not require user intervention", the Examiner cites Ohkura Col. 18, lines 48-Col. 9, lines 37).

Regarding claims 22 and 28, Ohkura further discloses an EPG content database storing a plurality of events available on one or more channels for a period of time because the EPG content is updated either "periodically", "cyclical" or

Art Unit: 2611

“carrousel” mode by the headend in which the favorite channel list depends on the newly updated EPG data for identifying newly updated Channels. (Col. 5, lines 15-20 and Col. 8, lines 4-26).

Regarding claims 23 and 29, Ohkura further discloses the step of identifying is achieved by matching one or more words in an event description from the EPG content Database to the user specific theme (Ohkura Fig. 16 shows list of favorite channels corresponding to theme/category News; Fig. 17 shows list of favorite channels corresponding to theme/category MOVIE... Col. 10, lines 15-27 in which the system will match the desired user specific theme/category with one or more words in an event description, i.e., C1..C5 from the EPG content Database of Fig. 12).

Regarding claim 24, Ohkura further discloses a computer (motherboard, processor, RAM, etc... Fig. 3) comprising:

A processor (29);

A computer readable medium (38,37,36);

A plurality of computer instructions (Fig. 11; Computer flowchart represents computer instructions) executed from the computer readable medium by the processor for performing the step of identifying one or more channels showing an event of a user specified theme (Fig. 14) and automatically adding each one of the

Art Unit: 2611

channels to a favorite channel list without user intervention (Col. 7, lines 65-Col. 8, lines 26).

Regarding claim 25, see analysis of Claim 24 and Ohkura further discloses the step of identifying is achieved by matching one or more words showing an event description from the EPG content Database to the user specific theme (Ohkura Fig. 16 shows list of favorite channels corresponding to theme/category News; Fig. 17 shows list of favorite channels corresponding to theme/category MOVIE... Col. 10, lines 15-27 in which the system will match the desired user specific theme/category with one or more words in an event description, i.e., C1..C5 from the EPG content Database of Fig. 12).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohkura et al. (US 5737029) in view of Kostreski et al. (US 5734589).

Claim 1, Ohkura discloses a computerized system for managing favorite channels based on a user specified theme, the computerized system comprising:

One or more favorite channel lists (Fig. 12), the favorite channel lists comprising one or more channels relating to the user specified theme (category), wherein the computerized system identifies the channels/programs showing an event of the user specified theme (category) and automatically adds each of channels/programs to the favorite channel list without user intervention (Col. 8, lines 49-Col. 9, lines 37);

Storing one or more favorite channel lists (Col. 8, lines 4-26 and lines 57-62);

A favorites database for storing one or more favorite channel lists (Col. 8, lines 4-26 and lines 57-62).

Ohkura does not clearly disclose one or more logical channels of the favorite channel list related to user specified theme; however, Ohkura shows favorite channel list related to user specified theme.

Kostreski shows one or more logical channel (Fig.5 and Col.28, lines 40-Col.29, lines 34). The secondary program maps 520a and 520b both provide the same RF and PID values for CBS, ABC, NBC and FOX; therefore, Kostreski discloses an arrangement that enables VIPs to share sources within the reserved section 522 (Col.29, lines 14-29 and Col.29, lines 35-Col.30, lines33). Furthermore, Kostreski teaches each logical channel "SEL." uniquely identifies a corresponding physical channel "VIP StarSight "for popular network such as CBS, ABC, NBC and FOX regardless the user select "VIP StarSight" or "VIP BVS" ; Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ohkura by mapping favorite channel listed to corresponding logical

(virtual) channels, as taught by Kostreski, in order to present to user an list of programs (EPG) in an organized, structured format adapted for ease of use by the user as suggested by Kostreski (Col.3, lines 15-57); moreover enable user to conveniently access the broadband services in an organized, structured format offered by the selected information service providers.

Regarding claim 2, Ohkura further discloses an EPG content database storing a plurality of events available on one or more channels for a period of time because the EPG content is updated either "periodically", "cyclical" or "carrousel" mode by the headend in which the favorite channel list depends on the newly updated EPG data for identifying newly updated Channels (Col. 5, lines 15-20 and Col. 8, lines 4-26).

Regarding claim 3, Ohkura further discloses wherein the user specified theme corresponds to a theme field of events in an EPG content database (Col. 9, lines 38-Col. 10, lines 25).

Regarding claim 4, Ohkura further discloses an EPG data services for managing the EPG content Database, the EPG data services providing functions for loading EPG –type (category) data from one or more data services (Col. 5; lines 10-20);

Regarding claim 5, Ohkura further discloses a favorites service providing one or more user interfaces and a plurality of management functions for each one of the favorite channel lists (Fig. 16-21; Col. 8, lines 38-Col. 11, lines 18).

Regarding claim 6, Ohkura further discloses wherein the management functions include at least one function selected from the group of functions consisting of: adding a favorite event to one of the favorite channel lists, removing a favorite event from one of the favorite channel lists and selecting a favorite event from one of the favorite channel lists (inherently met because the system keeps monitoring and updating by adding/removing/selecting the top 5 broadcasting channels of each category that have been most received/selected by users in the last 4 weeks; Col.8, lines 8-27).

Regarding claim 7, Kostreski further discloses a channel map service for determining a physical channel number and a corresponding physical device for each one of the logical channels (Fig.5).

Regarding claim 8, see analysis of claim 1, in combination with claims 5-7.

Regarding claim 9, see analysis of claim 7.

Regarding claim 10, see analysis of claim 6.

Regarding claim 11, see analysis of claim 1.

Regarding claim 12, see analysis of claim 2.

3. Claims 20-21, and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohkura et al. (US 5737029) in view of Schein (US 6002394).

Regarding claims 20 and 21, Ohkura further discloses wherein the user specified theme corresponds to a theme field of events in an EPG content database (Col. 9, lines 38-Col. 10, lines 25).

Ohkura does not clearly disclose the EPG content database include 'event sub-theme' or 'generic event sub-theme' as claimed; however, Ohkura discloses the step of identifying is achieved by matching theme from an EPG content database to the user specified theme.

Schein 's 394 shows the structure of an EPG database with theme ID (see Fig.4) that corresponds to 'Theme ID of a Theme Category Table' (Fig. 8). Moreover the Theme Category Table (Fig. 8) has a relational field 'Theme Subcategory handle Table' which has a relationship with the 'Theme ID #' field of the Theme Subcategory table (Fig.9; Col. 10, lines 60-Col. 11, lines 11) according to the well-known Relational Database's theory. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ohkura with Schein 's 394 to have an EPG content database include 'event sub-theme' or 'generic event sub-theme', as taught by Schein 's 394, so to provide to user an accurate way to present/query a program with a specific theme/sub-theme entry (Schein 's 394; Col. 11, lines 15-45).

Regarding claims 26 and 27, see analysis of claims 20-21.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7305. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HT:ht
05/03/2005

A handwritten signature in black ink, appearing to read 'Hai Tran', is written over two horizontal lines.

**HAI TRAN
PRIMARY EXAMINER**